

10 FAM 250

PRIVATE SECTOR EXCHANGE

(CT:PEC-22; 01-04-2013)
(Office of Origin: ECA)

10 FAM 251 PRIVATE SECTOR EXCHANGE DESIGNATION

10 FAM 251.1 Authority and Purpose

(CT:PEC-22; 01-04-2013)

- a. The Secretary of State facilitates the Exchange Visitor Program (EVP) in accordance with the Mutual Educational and Cultural Exchange Act of 1961 (the "Act"), as amended, Public Law 87-256, 22 U.S.C. 2451, et seq. (1988). These exchanges are defined by section 102 of the Act, 22 U.S.C. 2452, and section 101(a)(15)(J) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(J). The purpose of the EVP is to provide foreign nationals with opportunities to participate in educational and cultural programs in the United States and then return home to share their experiences, and to encourage Americans to participate in educational and cultural programs in other countries. The Deputy Assistant Secretary for Private Sector Exchange (ECA/EC) is responsible for managing and implementing statutory authorities vested in the Secretary of State and delegated, through the Under Secretary for Public Diplomacy and Public Affairs, to the Assistant Secretary for Educational and Cultural Affairs to facilitate the EVP (see 1 FAM 346). EVP activities are specified in 22 CFR Part 62, including designating public and private entities to act as EVP sponsors. Sponsors may act independently or with the assistance of third parties.
- b. Additional authority to conduct, monitor, and coordinate EVP activities is included in the following legislative acts:
 - (1) Summer Work Travel Statutory Authority (Public Law 105-277);
 - (2) Au Pair Statutory Authority (Public Law 105-48);
 - (3) USA PATRIOT ACT of 2001 – Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56); Section 416. Foreign student monitoring program;
 - (4) Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173), Section 501 Foreign Student Monitoring Program (SEVIS).

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- c. Authority for the Bureau of Educational and Cultural Affairs to monitor compliance with regulatory requirements of the Exchange Visitor Program is included in 22 CFR Part 62.

10 FAM 251.2 Exchange Program Designation Activities, ECA/EC/PS

(CT:PEC-22; 01-04-2013)

The Office of Private Sector Exchange Designation (ECA/EC/PS):

- (1) Reviews and evaluates requests of public and private-sector (to include academic) institutions and organizations for designation as an exchange visitor program sponsor and for use of the "J" (Exchange Visitor) non-immigrant visa classification to bring alien physicians, au pairs, camp counselors, interns, trainees, summer work/travel program students, university students, teachers, professors, short-term and research scholars, government visitors, international visitors, secondary school students, and specialists to the United States;
- (2) Organizes and conducts initial and re-designation on-site inspections (OSIs) of potential new EVP sponsor organizations and those previously designated, to measure their compliance with established Department policy and statutory and regulatory requirements;
- (3) Reviews and approves or denies requests from EVP sponsors on behalf of exchange visitors for reinstatement or extensions of their program status, changes of program category and program transfers in accordance with the Exchange Visitor Program regulations, 22 CFR Part 62, and;
- (4) Continuously reviews EVP policies and recommends possible changes to ECA/EC/OPA, ECA/EC/ECC, and the ECA/EC DAS.

10 FAM 252 PRIVATE SECTOR EXCHANGE PROGRAM ADMINISTRATION, ECA/EC/OPA

(CT:PEC-22; 01-04-2013)

The Office of Private Sector Exchange Program Administration (ECA/EC/OPA):

- (1) Maintains close, day-to-day liaison with designated EVP sponsors on all aspects of EVP administration, monitoring and enforcing all aspects of designated sponsor compliance with the requirements of the Student and Exchange Visitor Information System (SEVIS) operated by the Department of Homeland Security;
- (2) Monitors the operations of designated EVP sponsors to ensure full compliance with established Department policy and statutory and regulatory requirements, with the paramount goal of ensuring participant

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health, safety and welfare. This monitoring includes organizing and conducting both on-site and electronic sponsor reviews when necessary;

- (3) Reviews and responds to all complaints and incidents related to the EVP reported to the Department. Forwards those complaints deemed serious in nature immediately to ECA/EC/ECC for further investigation. The office monitors the ECA/EC toll-free help-line telephone number and jvisas@state.gov public mailbox to respond quickly and efficiently to all complaints or suggestions from EVP participants and/or the general public;
- (4) Evaluates program, category, and sponsor-specific data from the SEVIS, annual management audits, surveys of exchange visitor participants, and data requests to track program statistics, identify systemic compliance issues, and detect sponsor trends;
- (5) Develops, drafts, and clears all required EVP regulatory documents;
- (6) Designs, administers, and analyzes all EVP participant surveys;
- (7) Reviews and evaluates management audits submitted annually by designated EVP sponsors;
- (8) Reviews and evaluates exchange visitor participant placement and annual reports and;
- (9) Organizes and conducts both on-site and electronic sponsor reviews to measure compliance with established Department policy and statutory and regulatory requirements; may recommend further investigation by ECA/EC/ECC for possible regulatory sanctions based on precedent and severity of violations.

10 FAM 253 PRIVATE SECTOR EXCHANGE PROGRAM COORDINATION AND COMPLIANCE

10 FAM 253.1 Coordination and Compliance Activities

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The Office of Private Sector Exchange Program Coordination and Compliance (ECA/EC/ECC):

- (1) Investigates serious complaints received from the general public and/or EVP participants. When an investigation determines that a designated sponsor has demonstrated a lack of compliance with established Department EVP policies or statutory and regulatory requirements, ECA/EC/ECC recommends sanctions or corrective action plans of designated sponsor organizations to the ECA/EC DAS;
- (2) Monitors and enforces all aspects of designated sponsor compliance with the requirements of the Student and Exchange Visitor Information System

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(SEVIS) operated by the Department of Homeland Security This includes working closely with DHS to perfect and deploy SEVIS and its successor systems and ensure its use by designated sponsors;

- (3) Reviews and evaluates ECA/EC directorate compliance with internal controls;
- (4) Maintains all required liaison with other Department of State bureaus and U.S. Government agencies regarding sanctions and serious complaints about designated program sponsors;
- (5) Reviews EVP policies and recommends policy changes to the ECA/EC DAS and other ECA/EC office directors;
- (6) When needed to carry out investigations of serious incidents, allegations, or complaints, organizes and conducts EVP on-site inspections (OSIs) and electronic sponsor reviews (ESRs) to measure compliance with established Department policy and statutory and regulatory requirements;
- (7) Coordinates with terminated sponsors and currently active participants after program termination to determine participants are being provided adequate oversight and monitoring;
- (8) See "Rule-Making Documents" on the EVP Web site for J-1 Visa rulemaking documents and Frequently Asked Questions related to EVP rulemaking.

10 FAM 253.2 Sanction Activities

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- a. 22 CFR Part 62 Subpart D, Section 62.50 describes the types of sanctions ECA/EC/ECC may recommend in the event that a designated sponsor is found to have failed to comply with the requirements of 22 CFR Part 62.
- b. 22 CFR 62 Subpart E, Section 62.60 describes situations in which ECA may terminate or revoke the designation of an EVP sponsor.
- c. See Search Results for "sanctions" for a listing of all sanction actions taken by ECA/EC.